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November 4, 1996

**RECEIVED**

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Mr. William F. Caton  
Secretary  
Federal Communications Commission  
1919 M Street, NW.  
Washington, DC 20554

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY**

Re: CC Docket No. 96-128.

Dear Mr. Caton:

On behalf of the Ad Hoc Telecommunications Users Committee ("Ad Hoc"), we are writing in support of those Petitions for Reconsideration that urge the Federal Communications Commission ("FCC" or "Commission") to reconsider the market-based payphone compensation program set forth in its September 20, 1996 Report and Order.<sup>1</sup>

Ad Hoc includes several large 800/888 service subscribers and prepaid card providers. Industry sources anticipate that the Commission's new compensation scheme will result in rate increases of up to 15% for prepaid card providers and 800/888 subscribers, which will in turn raise rates for their individual customers. Ad Hoc is extremely concerned about these increased costs, particularly where the additional revenue to payphone service providers ("PSPs") constitutes overcompensation, not "fair compensation," for 800/888 subscriber and prepaid card calls, in violation of Section 276 of the Telecommunications Act of 1996 (the "1996 Act").

The Commission's scheme relies heavily on the presumption that a so-called market-based local coin call rate is an accurate proxy for a payphone call, regardless of the type of call, "because the cost of originating the various types of payphone calls are similar."<sup>2</sup> The Commission presumes incorrectly. As

<sup>1</sup> *Implementation of the Pay Telephone Reclassification and Compensation Provision of the Telecommunications Act of 1996*, CC Docket 96-128, Report and Order, FCC 96-388 (released September 20, 1996) ("Payphone Order").

<sup>2</sup> Payphone Order at ¶ 70.

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argued by Sprint, MCI, AT&T and PageNet, PSPs simply do not incur the same costs for 800/888 calls as for local coin calls.<sup>3</sup> The Commission's failure to address this discrepancy requires reconsideration of its Payphone Order.

Local coin rates cover the cost of the equipment, the local line, local switching and transmission, labor costs in emptying the coin box, and maintenance costs, which presumably include repair necessitated by vandalism of coin boxes. The only costs generated by 800/888 calls are the maintenance costs for general wear and tear of the payphone instrument.<sup>4</sup> PageNet's price comparison between coin and non-coin phone units demonstrates that adding coin capability to a payphone raises the costs of the payphone unit by up to 500%.<sup>5</sup> Under the Commission's payphone order, 800/888 subscribers and prepaid card providers pay this cost, even though PSPs do not incur such a cost in connection with 800/888 calls. To PSPs, this additional revenue is pure windfall.

This same analysis holds true for the \$.35 per call payment required by the Commission during the second year of its compensation plan. The Commission's proxy rate of \$.35 per call is based on the deregulated local coin call rate in five rural states. This \$.35 rate grossly exaggerates the actual per call cost for 800/888 calls. According to studies conducted by MCI and AT&T, the Commission's proxy is approximately four to six times higher than what 800/888 subscribers and prepaid card providers should really be paying.<sup>6</sup> These inordinate cost increases will injure not only the 800/888 subscriber and prepaid card industries as a whole, but also the average consumer who uses these services.

In addition, the Commission must reexamine its response to the issue of 800 fraud. It is not enough that the Commission agrees to take strong enforcement action when fraud arises. Rather, the Commission must be proactive, and prescribe rules that make it easier for interexchange carriers to detect fraudulent activity before any significant damage results.

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<sup>3</sup> See Sprint Petition at 2-4; MCI Petition at 10-13; AT&T Petition at 9-10; PageNet Petition at 12-16.

<sup>4</sup> The line from the payphone to the user's end office is already paid for by interexchange carriers through originating access charges. Even if the Commission were to accept the RBOC Coalition's argument that a line charge should be included in per call compensation, however, AT&T's studies show that this additional charge should increase compensation by only \$.06 - .07 per call, still leaving the gap between local call costs and 800/888 call costs wide open. RBOC Reply Comments at 13; AT&T Petition at 7-8, n. 7.

<sup>5</sup> PageNet Petition at 13-14.

<sup>6</sup> MCI Petition at 15; AT&T Petition at p. 7, n. 6.

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Ad Hoc does not dispute that payphone service providers should be fairly compensated. However, Section 278 of the 1996 Act requires "fair" compensation only, not overcompensation. The Commission's payphone compensation scheme extracts a price that is simply too high, and one which 800/888 callers and subscribers should not be required to pay.

Please address any such questions to undersigned counsel for Ad Hoc.


Sincerely,

A handwritten signature in black ink, appearing to read "James S. Blaszak", with a long, sweeping horizontal line extending to the right.

James S. Blaszak  
Janine F. Goodman

### **CERTIFICATE OF SERVICE**

I, Andrew Baer, hereby certify that true and correct copies of the preceding Letter on behalf of the Ad Hoc Telecommunications Users Committee upon all parties in CC Docket No. 96-128, Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, this 4th day of November, by first class U.S. mail.

  
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Andrew Baer